

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CORNELIUS BROWN,

Plaintiff,

V.

DEPARTMENT OF HEALTH &
HUMAN SERVICES, et al.,

Defendants.

8:16CV245

MEMORANDUM AND ORDER

Plaintiff has filed a Motion for Leave to File an Amended Complaint. (Filing No. 8.) The motion will be granted as Defendants have not yet been served or filed any response in this action.

Plaintiff has also filed a motion seeking the appointment of counsel. (Filing No. 9.) The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” *Id.* Having considered these factors, the request for the appointment of counsel will be denied without prejudice to reassertion.

IT IS THEREFORE ORDERED:

1. Plaintiff's Motion for Leave to File an Amended Complaint (Filing No. 8) is granted. Plaintiff shall file an amended complaint by January 6, 2017. **Plaintiff**

is advised that the amended complaint will supersede, rather than supplement, his original complaint.

2. The clerk of court is directed to set a pro se case management deadline in this case using the following text: January 6, 2017: Check for Amended Complaint.

3. Plaintiff's Motion for Appointment of Counsel (Filing No. [9](#)) is denied without prejudice to reassertion.

DATED this 7th day of December, 2016.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge